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6
7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 ENRIQUE AQUINO

12 Defendant.

13) 2:11-CR-118-KJD-(CWH)
14
15 **UNITED STATES' SECOND UNOPPOSED MOTION TO**
CONTINUE THE DATE TO RESPOND TO DAVID
SERRANO'S MOTION FOR RETURN OF PROPERTY

16 The United States of America ("United States"), by and through Daniel G. Bogden, United
17 States Attorney for the District of Nevada and Michael A. Humphreys, Assistant United States
18 Attorney, respectfully moves this Court to grant a second extension of time, until and including
19 November 30, 2012, for the United States to file its response to David Serrano's Motion To Return
20 Property, that property being identified as:

21 a Heritage, model Rough Rider, .22 caliber revolver, serial number: F07048.

22 The Government's Opposition is currently due on September 26, 2012. David Serrano,
23 proceeding *pro se*, consents to this motion. In this case, the defendant, Enrique Aquino, was indicted
24 on March 23, 2011, for possessing, concealing and/or storing a firearm. On May 2, 2012, defendant
25 Aquino pled guilty to possessing, concealing and/or storing a firearm. As a condition of that plea
26 agreement, the defendant consented to the criminal forfeiture of the above-referenced handgun seized
27 from him coincident to his arrest. The United States learned through its own investigation that
28 David Serrano was the true owner of that revolver. The United States Attorney for the District of

1 Nevada formally notified Mr. Serrano about the gun and consistent with that notification, Mr.
2 Serrano filed his Motion for Return of Property on July 2, 2012.

3 Pursuant to that filing, this Court ordered the United States to file its opposition to Mr.
4 Serrano's motion by July 19, 2012. On July 18, 2012, this Court granted the Government's Consent
5 Motion to Extend the time to file its opposition to David Serrano's motion for return of property
6 until September 26, 2012.

7 The defendant was sentenced on September 4, 2012; and the criminal judgment against him
8 was entered on September 10, 2012. The Government is prepared to finalize its settlement
9 agreement with Mr. Serrano, but cannot return the gun to him, pursuant to that settlement agreement,
10 until the defendant has exhausted his appellate rights. The Government needs to wait at least an
11 additional sixty days until the defendant's appellate rights have been exhausted. Once the
12 Government and Mr. Serrano have entered into a stipulated agreement, the litigation will be
13 complete, vitiating the need for the Government to file a response to Mr. Serrano's motion. This
14 matter should be settled by November 30, 2012.

15 As noted above, Government counsel discussed the matter of a government continuance with
16 David Serrano on September 25, 2012, and Mr. Serrano gave Government counsel authorization to
17 represent to this Court that he (Mr. Serrano) consents to this motion.

18 This motion is not submitted solely for the purpose to delay or for any other improper
19 purpose.

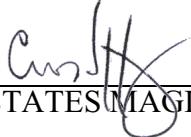
1 WHEREFORE, , the United States moves this Court to grant its motion to extend the time
2 for the United States to file its Response To David Serrano's Motion For Return of Property until
3 November 30, 2012.

4 DATED this 26th day of September, 2012.

5 Respectfully submitted,
6 DANIEL G. BOGDEN
United States Attorney

7 /s/Michael A. Humphreys
8 MICHAEL A. HUMPHREYS

10
11 IT IS SO ORDERED:

13 
14 UNITED STATES MAGISTRATE JUDGE

15 DATED: September 27, 2012

PROOF OF SERVICE

I, Elizabeth Baechler-Warren, Forfeiture Support Associate Paralegal, certify that the following individuals were served with a copy of the foregoing on September 26, 2012, by the below identified method of service:

CM/ECF:

Raquel Lazo
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Counsel for Defendant Enrique Aquino

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/s/ Elizabeth Baechler-Warren
Elizabeth Baechler-Warren
Forfeiture Support Associate Paralegal